APPENDIX

Revenue Act of 1932, c. 209, 47 Stat. 169:

SEC. 52. CORPORATION RETURNS.

(a) *Requirement.* — Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer or assistant treasurer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

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SEC. 103. EXEMPTIONS FROM TAX ON CORPORATIONS.

The following organizations shall be exempt from taxation under this title—

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(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for

profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necesarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

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National Industrial Recovery Act of 1933, c. 90, 48 Stat. 195:

SEC. 215. (a) For each year ending June 30 there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of $1 for each $1,000 of the adjusted declared value of its capital stock.

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(c) The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 103 of the Revenue Act of 1932;

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The provisions of Sections 101 (5) and 701 (a) and (c) (1) of the Revenue Act of 1934, c. 277, 48 Stat. 680, and Section 105 (a) and (c) (1) of the Revenue Act of 1935, c. 827, 49 Stat. 1014, are substantially the same as the respective provisions of Section 103 (5) of the Revenue Act of 1932 and Section 215 (a) and (c) (1) of the National Industrial Recovery Act, set out above, except as to a change in the rate of tax under Section 105 (a) of the Revenue Act of 1935.

Treasury Regulations 64, promulgated under Section 215 of the National Industrial Recovery Act:

> ART. 41. *Evidence of exemption.*—If exemption has been allowed under section 103 of the Revenue Act of 1932 from Federal income tax, a copy of the ruling of the Commissioner granting such exemption should be furnished. Where exemption is claimed but no ruling has been made, an affidavit should be furnished showing the character of the organization, the purposes for which organized, its activities, sources of the income and its disposition, whether or not any of the income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to the operations which affect the right to exemption.

Treasury Regulations 77, promulgated under the Revenue Act of 1932:

> ART. 521. *Proof of exemption.*—In order to establish its exemption and thus be relieved of the duty of filing returns of income and paying the tax, it is necessary that every organization claiming exemption file an affidavit with the collector of the district in which it is located, showing the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and its disposition, whether or not any of its income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. To such affidavit should be attached a copy of the charter or articles

of incorporation, the by-laws of the organization, and the latest financial statement, showing the assets, liabilities, receipts, and disbursements of the organization.

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ART. 526. *Cemetery companies.*—A cemetery company may be entitled to exemption—

(1) If it is owned by and operated exclusively for the benefit of its lot owners, or

(2) If it is not operated for profit.

Any cemetery corporation chartered solely for burial purposes and not permitted by its charter to engage in any business not necessarily incident to that purpose, is exempt from income tax, provided that no part of its net earnings inures to the benefit of any private shareholder or individual. A cemetery company which fulfills the other requirements of the Act may be exempt, even though it issues preferred stock entitling the holders to dividends at a fixed rate, provided that its articles of incorporation require—

(1) That the preferred stock shall be retired at par as soon as sufficient funds are realized from sales, and

(2) That all funds not required for the payment of dividends upon or for the retirement of preferred stock shall be used by the company for the care and improvement of the cemetery property.

Treasury Regulations 64 (1934 ed.):

ART. 71. *Proof of exemption.*—Any corporation, joint stock company or association, no matter how created or organized, or what the purpose of its organization may be, is subject to the tax unless it comes clearly within the class of organizations

specifically enumerated in the Act as exempt. A corporation is not exempt merely because it is not organized and operated for profit.

If a corporation claims exemption on the ground that it falls within one of the classes enumerated in section 101 of the Act, it shall submit evidence satisfactory to the Commissioner that it is in fact within one of those classes. When an organization has established its right to exemption, under section 701 (c) (1), it need not thereafter make a capital stock tax return or furnish any further proof with respect to its status under the law, unless it changes the character of its organization or operations or the purpose for which it was originally created. Collectors will keep a list of all corporations exempt under this section, to the end that they may occasionally inquire into their status and ascertain whether or not they are observing the conditions upon which their exemption is predicated.

To establish this exemption one of the following requirements must be met: (1) If a corporation claimed exemption from capital stock tax under section 215 of the National Industrial Recovery Act, by reason of the provisions of section 103 (other than paragraph (6)) of the Revenue Act of 1932, and the corporation has received from the Commissioner a letter sustaining such claim, no further proof is required and such corporation will not be required to file a capital stock tax return for the taxable year ended June 30, 1934, or for any subsequent taxable year except as indicated in the last preceding paragraph. (2) If a corporation has not established its exemption for capital stock tax purposes in the manner stated in (1) above, it must file

Form 707, revised, complete as to items 1 to 6, inclusive, and items 8 and 9 on the first page and (A) on the second page thereof, together with documentary evidence as follows: (a) If a corporation has previously claimed exemption from Federal income tax under a provision of section 101 of the Act, or under an identical provision of a prior revenue Act, and the Commissioner has sustained its claim, a copy of the Commissioner's letter sustaining such claim should be attached; (b) if a corporation has not previously established its exemption from Federal income tax, or if it is unable to, or does not, submit the proof required under (a) above, then it shall attach an affidavit showing the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and its disposition, whether or not any of its income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. To such affidavit shall be attached a copy of the charter or articles of incorporation, the by-laws of the organization, and the latest financial statement, showing the assets, liabilities, receipts, and disbursements of the organization.

The provisions of Article 71, Treasury Regulations 64 (1936 edition) relating to the capital stock tax under Section 105 of the Revenue Act of 1935 are substantially the same as the provisions of Article 71, Regulations 64 (1934 edition) promulgated under Section 701 of the Revenue Act of 1934.

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